

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA

V.

1:11cr239-24 (superceding)

GEOVANY MARTINEZ-VARGAS

PRELIMINARY MOTION TO SUPPRESS

Comes now the Defendant, by and through counsel, and files this, his preliminary motion to suppress, and shows this Court as follows:

1.

Defendant was arrested on June 3, 2010 at 173 Willow Springs Lane, Stockbridge, Ga., by the Henry County Police Department. Defendant was charged with trafficking in marijuana and possession of a firearm during a felony by State authorities.

2.

The residence was searched first without a warrant and later with a warrant, which was based on the earlier warrantless search.

3.

The affidavit referred to a reliable source which failed to demonstrate any reliability of that source, and a trash pull several days before the search involving one marijuana bud.

4.

The search of the residence was clearly Fourth Amendment violative, was based upon an earlier illegal search, failed to establish probable cause, and may have contained material in violation of Franks v. Delaware, 438 U.S. 154 (1978)

WHEREFORE, Defendant prays;

1. That a hearing be held,
2. That all evidence and fruits of any search occurring during this incident be suppressed, and
3. For such other relief that this Court deems appropriate.

Respectfully submitted,

S/Robert H. Citronberg

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CERTIFICATE OF SERVICE

It is hereby certified that the foregoing motion was served electronically on:

Ms. Lisa Tarvin
Assistant United States Attorney
75 Spring St., SW
Atlanta, Ga. 30303.

This 21st day of November, 2011

S/Robert H. Citronberg

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